

CHAPTER 1

Reserved

CHAPTER 2

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of human rights hereby adopts, with the following exceptions and amendments, uniform rules on agency procedure relating to public records and fair information practices printed in the first volume of the Iowa Administrative Code.

421—2.1(22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert the “Department of Human Rights and the Divisions for Community Action Agencies, Criminal and Juvenile Justice Planning, Deaf Services, Persons with Disabilities, Latino Affairs, Status of Women, and Status of African-Americans.”

“Custodian.” In lieu of the words “means the agency,” insert “means the director of the department of human rights or the administrator of the division within which the records are maintained”.

“Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

421—2.3(22) Requests for access to records.

2.3(1) Location of record. In lieu of the words “(insert agency head)” insert “director of the department of human rights, or the administrator of the appropriate division within the department”. In lieu of the words “(insert agency name and address)” insert the “Department of Human Rights or the appropriate division within the department, Lucas State Office Building, Des Moines, Iowa 50319.”

2.3(2) Office hours. In lieu of the words “insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4”, insert “8 a.m. to 4:30 p.m. Monday through Friday, except legal holidays”.

2.3(6) Copying. In lieu of the words “A reasonable number of copies”, insert “One copy”.

2.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”.

421—2.6(22) Procedure by which additions, dissents or objections may be entered into certain records. In lieu of the words “(designate office)” insert “department of human rights”.**421—2.9(22) Disclosures without the consent of the subject.**

2.9(1) Open records. Open records are routinely disclosed without the consent of the subject.

2.9(2) Confidential records. To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 2.10(22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of an individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

421—2.10(22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

2.10(1) Disclosure to those employees of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

2.10(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

2.10(3) Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

2.10(4) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

2.10(5) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

421—2.11(22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 2.7(22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

421—2.12(22) Release to subject.

2.12(1) *One subject.* The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.

d. As otherwise authorized by law.

2.12(2) *Multiple subjects.* Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

421—2.13(22) Availability of records.

2.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) Confidential records. The following records may be withheld from public inspection.

a. Information pertaining to clients receiving advocacy or referral services. (1988 Iowa Acts, House File 2255);

b. Tax records made available to the agency. (Iowa Code section 422.20 and 422.72);

c. Records which are exempt from disclosure under Iowa Code section 22.7;

d. Minutes of closed meetings of a government body (Iowa Code section 21.5(4));

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy under Iowa Code section 17A.3(1)“*d*”;

f. Those portions of agency staff manuals, instructions or other statements excluded from the definition of “rule.” (Iowa Code section 17A.2(7)“*f*”);

g. Records which constitute an attorney work product, attorney-client communications, or which are otherwise privileged. (Iowa Code sections 22.7(4), 622.10, 622.11, and chapter 622B);

h. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4(22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

421—2.14(22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 2.1(22). For each record system, this rule describes the legal authority for the collection or maintenance of that information; the means of storage of that information and indicates when applicable; if a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system; and when the record system is confidential, indicates the statutory authority. The record systems maintained within the agency are:

2.14(1) Personnel records.

a. The agency maintains files containing information about employees, families and dependents, and applicants for commission members or staff positions within the agency. These files include, but are not limited to, payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports and other information concerning employees and related issues. The files are maintained by department and by division.

b. The legal authority for maintaining the records for state-funded programs in Iowa Code sections 19A.11 and 91A.6, and chapter 601K. The legal authority for maintaining the records for federally funded programs is P.L. 97-35, Subtitle B, Section 675(c), P.L. 93-569, Title 5, U.S.C. 552a, P.L. 93-415, P.L. 98-473, Title II, Chapter 14, P.L. 98-457 and other federal statutes from which federal funds are granted.

c. The information is maintained on paper and some parts are on a data processing system that matches, collates or permits the comparison of some personally identifiable information within the state’s automated data processing system.

d. Certain information contained within this record system is confidential under the authority of Iowa Code section 22.7(11).

2.14(2) Advocacy records.

a. The agency maintains files containing information pertaining to clients receiving advocacy or referral services to help alleviate or solve a problem. Such information may include, but is not limited to, names and addresses of clients, documents or other material relating to advocacy issues, social or economic conditions or circumstances of particular clients, department or division evaluations of information about clients, medical or psychiatric data provided to the department or division concerning a client, and legal data related to the client. These files are maintained by division and may be indexed by advocacy files, client files, interpreting files or any direct service involving individual client assistance set forth in this rule or by statute.

b. The authority for maintaining these records is Iowa Code chapter 601K and P.L. 97-35, P.L. 93-569, P.L. 93-415, P.L. 98-473, P.L. 98-457 and other federal statutes from which federal funds are granted.

c. Most of the information is maintained on paper; however, some divisions have some records in computer form which are maintained by the respective division.

d. Information contained within this record system is confidential under the authority of Iowa Code subsection 22.7(18) and 1988 Iowa Acts, House File 2255.

2.14(3) Fiscal records.

a. The agency maintains files containing fiscal information for state-funded programs and federally funded grants or contracts that may contain personally identifiable information. These records are maintained by department and by division.

b. The authority for maintaining these records is Iowa Code chapter 601K, P.L. 97-35, P.L. 93-569, P.L. 93-415, P.L. 98-473, P.L. 98-457 and other federal statutes from which federal funds are granted.

c. These records are stored on paper and on the state's automated data processing system that matches, collates or permits the comparison of some personally identifiable information.

d. Certain information contained within this record system is confidential under the authority of Iowa Code section 22.7(11).

2.14(4) General correspondence, mailing lists, and program or grant data.

a. The agency maintains correspondence files, grant notices and applications, conference or committee listings and reports, commission meeting minutes, mailing lists, program and grant information including surveys or specialized reports and activities that contain some personally identifiable information that may include names, addresses or other descriptive data. These records are generally collected and maintained by division.

b. The authority for maintaining these records is Iowa Code chapter 601K, P.L. 97-35, P.L. 93-569, P.L. 93-415, P.L. 98-473, P.L. 98-457 and other federal statutes from which federal funds are granted.

c. The information is maintained on paper and in computer systems within each respective division.

d. These records are generally open to the public unless otherwise authorized to be confidential by law.

421—2.15(22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems retrieved by a personal identifier as defined in rule 2.1(22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 2.13(22). All records are stored both on paper and in automated data processing systems, unless otherwise noted.

2.15(1) Administrative records. This includes documents concerning budget, inventory, annual reports, office policies, state forms and reports.

2.15(2) *Publications, resource and library materials.* This includes books, periodicals, newsletters, government documents and public reports. These materials would generally be open to the public; some may be protected by copyright law.

2.15(3) *Office publications.* The divisions distribute to the public a variety of materials including brochures and typed information regarding issues pertinent to their programs or constituent groups. Also included are statistical reports, program reports and news releases.

2.15(4) *Rule-making records.* These include documents generated during the rule-making process, including public comments, and are available for public inspection.

2.15(5) *All other records.* Records are open if not exempted from disclosure by law.

421—2.16(22) Availability to listings of specific record series in the department by division. A detailed listing of records is available to the public in the central administration office in paper or automated data processing form. This listing includes, by division, the record series name, a general description of the record series, record location, maintenance, physical medium, identifier by which the records are accessed, individuals who have routine access, whether the record is entirely public, entirely confidential, or partially public and partially confidential, whether the record has or does not have personally identifiable information, what forms are associated with the record series and whether or not there is computer matching of personally identifiable information.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapters 22 and 216A.

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